THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26166 of 2007

Date: 10.12.2007

Between:

G. Neelakanta.

..... PETITIONER

AND

The District Cooperative Central Bank,
Kurnool, Kurnool District, rep. by its
General Manager and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26166 of 2007

Order:

This writ petition is filed seeking to direct the respondents to give an opportunity to the petitioner to pay the loan amount due to the 1st respondent-Bank by way of one time settlement, and also to declare that the impugned auction notice dated 01.11.2007, issued by the 2nd respondent, is illegal, arbitrary and contrary to the A.P. Co-operative Societies Act, 1964 and the Rules made thereunder.

The case of the petitioner is that he availed a loan of Rs.45,000/- from the 1st respondent-Bank in the year 1998 for the purpose of running a photo studio by mortgaging part of his residential house bearing No. 9/286, situated at Mugathipeta, Yemmiganur, Kurnool District. The petitioner states that due to some set backs and latest technologies, he could not run the photo studio by up grading it, and subsequently, he closed the studio, but he is regular in payment of the loan instalments. While so, the 4th respondent has issued a notice under Section 71 of the A.P. Co-operative Societies Act, 1964, directing him to pay an amount of Rs.16,207/- towards principal, Rs.1613/- towards interest and Rs.20,458/- towards penal interest, aggregating to Rs.38,368/-. Thereafter, he repaid an amount of Rs.3,500/- on 11.12.2006, Rs.2,500/- on 27.02.2007, Rs.2,500/- on 15.05.2007 and Rs.5,000/- on 30.07.2007. He further states that since he repaid an amount of Rs.61,652/- towards loan instalments by 30.07.2007, he approached the 1st respondent-Bank and requested to waive the penal interest of Rs.20,458/-. But, the 1st respondent-Bank, without considering his request, has issued the

impugned notice proposing to auction the mortgaged property. Hence, he filed the present writ petition.

When the matter is taken up for admission, it is submitted by the learned counsel for the petitioner that even after issuance of present impugned notice, the petitioner has paid an amount of Rs.9,500/- towards loan instalments, and that the petitioner is willing to clear the dues payable to the 1st respondent-Bank in lump sum by way of one time settlement.

On the other hand, learned Standing Counsel for the respondent-Bank, on instructions, submits that there is no such scheme available in the respondent-Bank, and if the writ petitioner is interested to clear the dues, he can make a request to the respondent-bank.

Since the petitioner is willing to clear the arrears due under his loan account in one time settlement, and in view of the statement made by the petitioner that after issuance of present impugned notice, he re-paid an amount of Rs.9,500/- towards loan instalments, I deem it appropriate to dispose of the writ petition with the following directions:

If the petitioner is interested in clearing the arrears due under his loan account, he can make a representation to that effect to the 1st respondent-Bank, within a period of one week from today, and if any such representation is filed and if the petitioner agrees to pay the amount in lump sum as determined by the respondent-Bank, the respondent-Bank shall accept the same and close his account. The entire exercise should be completed within a period of four weeks from today. Till such time, the respondents are directed not to conduct any auction.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 10.12.2007

Nsr